

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
High Plains Cablevision I, Ltd.)	File No. EB-02-TS-192
)	
Operator of Cable Systems in the States of:)	
)	
Idaho, Oklahoma, Texas and Washington)	
)	
Request for Waiver of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: September 27, 2002**Released: October 4, 2002**

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant High Plains Cablevision I, Ltd. ("High Plains") temporary, 36-month waivers of Section 11.11(a) of the Commission's Rules ("Rules") for 23 cable television systems listed in Attachment A for the four above-captioned states. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.¹

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.² In 1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations" 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("First Report and Order"), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

⁴ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("Second Report and

Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁵ However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁷ The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.⁸

3. On May 10, 2002, High Plains filed a request for temporary, 36-month waivers of Section 11.11(a) for 23 small rural cable television systems listed in Attachment A for the four captioned states. In support of its waiver request, High Plains states that the 23 systems each serve between 29 and 279 subscribers. Based on price quotes provided by EAS equipment manufacturers, High Plains estimates that it would cost approximately \$193,200 or \$246,100, respectively, to install decoder-only or encoder/decoder EAS equipment at the 23 cable television systems. High Plains asserts that the cost of installing EAS equipment at these systems will impose a substantial financial hardship on it and provides financial statements for 1999, 2000 and 2001 in support of this assertion. In addition, High Plains submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. High Plains also asserts that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations and other sources.

4. Based upon our review of the financial data and other information submitted by High Plains, we conclude that temporary, 36-month waivers of Section 11.11(a) for the 23 systems listed in Attachment A are warranted.⁹ In particular, we find that the \$193,200 and \$246,100 estimated costs of EAS equipment for these small cable systems could impose financial hardship on High Plains.

Order”).

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ *Id.* at 15513, n. 59.

⁹ The waivers will extend 36 months from October 1, 2002, until October 1, 2005. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,¹⁰ High Plains Cablevision I, Ltd. **IS GRANTED** waivers of Section 11.11(a) of the Rules until October 1, 2005 for the 23 cable television systems listed in Attachment A.

6. **IT IS FURTHER ORDERED** that High Plains Cablevision I, Ltd. place a copy of these waivers in its system files.

7. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for High Plains Cablevision I, Ltd., Mark J. Palchick, Esq., Holland & Knight LLP, 2099 Pennsylvania Avenue, N.W., Suite 100, Washington, D.C. 20006-6801.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

¹⁰ 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Attachment A

High Plains Cablevision I, Ltd.

Cable Systems:**Temporary Waiver Granted Until:****Idaho**

Plummer, Idaho

October 1, 2005

Worley, Idaho

October 1, 2005

Okahoma

Texhoma, Oklahoma

October 1, 2005

Texas

Adrian, Texas

October 1, 2005

Cactus, Texas

October 1, 2005

Channing, Texas

October 1, 2005

Etter, Texas

October 1, 2005

Hartley, Texas

October 1, 2005

Miami, Texas

October 1, 2005

Nazareth, Texas

October 1, 2005

San Jon, Texas

October 1, 2005

Texhoma, Texas

October 1, 2005

Turkey, Texas

October 1, 2005

Washington

Fairfield, Washington

October 1, 2005

Garfield, Washington

October 1, 2005

Harrington, Washington

October 1, 2005

Oakesdale, Washington

October 1, 2005

Reardon, Washington

October 1, 2005

Rockford, Washington

October 1, 2005

Rosalia, Washington

October 1, 2005

Spangle, Washington

October 1, 2005

Sprague, Washington

October 1, 2005

Springdale, Washington

October 1, 2005